

REMARKS

Applicant respectfully requests consideration of the subject application. This Response is submitted in response to the Office Action mailed January 17, 2008. Claims 1-12 are pending. Claims 1-12 are rejected. In this Amendment, no claims have been amended. No new matter has been added.

Drawings

The Examiner has objected to the drawings under 37 C.F.R 1.83(a). The drawings must show every feature of the claimed invention specified in the claims. Applicant also submits Replacement Sheets No. 1 and 2 containing Figures 1 and 2, respectively, and reflecting amendments made to Figures 1 and 2, respectively. Specifically, Figures 1 and 2 have been amended to include temperature sensor 30, fan 31, and heater 32. Support for the amendment can be found at least at page 4 of the application as filed.

The Examiner has stated that the "housing vent and closure provided in an external wall of the housing" recited in claim 8 is not shown. Applicant respectfully submits that the housing vent and closure provided in an external wall of the housing is shown in Figures 1-3. See, e.g., Figure 3 which illustrates housing 2, vent 4 and closure 4a. (See, e.g., page 6; paragraph describing Figure 3).

The drawings are also objected to because reference character “1” is specifically discussed in the specification in relation to Figure 1, but this reference character has not been included in the Figure. Applicant respectfully submits that reference character “1” is present within the Replacement Sheet No. 1 for Figure 1.

Specification

The Examiner has objected to the abstract of the disclosure for various reasons. Applicant has amended the Abstract as suggested by the Examiner, and thus the objection should be withdrawn.

The Examiner has also objected to the specification for failing to provide antecedent basis for the claimed subject matter. More specifically, the Examiner has objected that the specification does not provide a proper antecedent basis for a “housing vent and closure provided in an external wall of the housing”. Applicant respectfully submits that the housing vent and closure provided in an external wall of the housing is shown in Figures 1-3. See, e.g., Figure 3 which illustrates a plain view of an air circulation and ventilation unit comprising: housing 2, vent 4 and closure 4a. Page 6 of the application, for example, recites in part:

Figure 3 is a plain [sic] view of an air circulation and ventilation unit of the invention. The air circulation and ventilation unit includes housing 2, controller 10 and vent 4 and vent closure 4a. The bottom of the housing unit (not shown) is open to allow communication between the inside of the air circulation and ventilation unit and the interior of the cabinet. Vent 4 provides a means of communication between the inside of the air circulation unit (and therefore the interior of the cabinet) and the roof space of the cabinet when the vent is open.

It appears the Examiner considers the roof 9 to be part of the circulation and ventilation unit. The roof 9 is part of the cabinet and not part of the air circulation and ventilation unit. Moreover, page 3 of the specification describes that the air circulation and ventilation unit 2 sits between the ceiling and roof of cabinet 1. Figures 1 and 2 clearly show the vent in an external wall of the air circulation and ventilation unit. Therefore, Applicant respectfully submits that the objection should be withdrawn.

35 U.S.C. § 112 Rejections

The Examiner has rejected claim 8 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. As shown above, Applicant respectfully submits that Figures 1-3 and the description in the specification adequately describe “the housing vent and closure provided in an external wall of the housing” to sufficiently meet the written description

requirement of 35 U.S.C. §112. Applicant, accordingly, respectfully requests withdrawal of the rejection under 35 U.S.C. § 112.

35 U.S.C. §§ 102 and 103 Rejections

The Examiner has rejected claims 1-2 and 7-12 under 35 U.S.C. § 102(b) as being anticipated by Dufrense et al., (U.S Patent No.: 4,495,545), hereinafter “Dufrense”). The Examiner has rejected claims 3-4 under 35 U.S.C. § 103(a) as being unpatentable over Dufrense, claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Dufrense in view of Jones, (U.S Patent No.: 6,127,663, hereinafter “Jones”) and claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Dufrense in view of Lattimore, et al., (U.S Patent No.: 6,342,004, hereinafter “Lattimore”).

Anticipation:

The examiner has objected that claims 1-2 and 7-12 are anticipated by US 4,495,545 to Dufresne. Applicant respectfully disagrees and submits that the claims are novel and inventive. In particular, Dufresne does not describe “a housing configured to fit at least partially over the ceiling of an equipment cabinet including fitting over at least one vent in the ceiling of the cabinet, so that the interior of the housing is in communication with the interior of the cabinet”. Nor is there any teaching of “the housing having a housing vent comprising a

closure moveable between an open position in which air is permitted to flow through the housing vent between the outside of the housing and the inside of the housing and a closed position in which little or no air is permitted to flow through the housing vent between the outside of the housing and the inside of the housing”. There are two options for equipment that may form the housing in Dufresne. For your convenience, attached in Appendix A and B are marked up illustrations of Figures 1 and 2 of Dufresne to help understand the following explanation of Option 1 and Option 2, respectively. Each shall be dealt with in turn.

Option 1— Exterior of Cabinet forms housing

In option 1, which is clearly marked on one of the attached sheets, the exterior of the cabinet is labeled as the housing. In this option, baffle 21 of Dufresne is the housing vent. However if this is the case, then claim 1 is not fulfilled by Dufresne because the housing is always open to the external environment via openings 30, 31. In this option, the vent clearly has an open and a closed position. In the open position, air can flow between the interior of the housing and the exterior of the housing. However, when the vent is in the closed position, air can still flow between the interior of the housing and the exterior of the housing. This is shown by the arrows marked “air flow” in Figure 1 of the page marked Option 1. The closing or opening of the housing vent does not alter this air flow between the

interior of the housing and the exterior of the housing. Applicant therefore submits that the exterior of the cabinet cannot be considered to be the housing if Dufresne is to meet all the features of the claimed invention.

Option 2— Baffle forms housing

The second candidate for the housing is that baffle 21 forms a housing. If baffle 21 does form the housing, this presents a problem of which part of the equipment cabinet is the vent. If baffle 21 is the housing, then it cannot also be the vent. This means that the requirement for the vent including a closure “moveable between an open position in which air is permitted to flow through the housing vent between the outside of the housing and the inside of the housing and a closed position in which little or no air is permitted to flow through the housing vent between the outside of the housing and the inside of the housing,” does not make any sense at all.

Further, if baffle 21 is the housing, there is no defined interior of the housing as required by claim 1 of the claimed invention. In Dufresne, the interior of the housing changes as the position of the baffle changes. When the baffle is in the closed position, an area could be defined as the interior of the housing. But this area is significantly different when the baffle is in the open position. For these reasons, the baffle cannot be the housing either.

Applicant therefore respectfully submits that Dufresne does not disclose a housing at all and therefore does not anticipate claim 1 of the present application. Moreover, claims 2 and 7-12 ultimately depend from claim 1 and include all the limitations of claim 1. Therefore, Dufresne does not anticipate claims 2 and 7-12 for at least the same reasons.

Obviousness:

Applicant further submits that Dufresne does not render the present application obvious. Dufresne in no way suggests “a housing configured to fit at least partially over the ceiling of an equipment cabinet including fitting over at least one vent in the ceiling of the cabinet, so that the interior of the housing is in communication with the interior of the cabinet” as required by claim 1. Claim 1 also requires that the housing also including its own vent “comprising a closure moveable between an open position in which air is permitted to flow through the housing vent between the outside of the housing and the inside of the housing and a closed position in which little or no air is permitted to flow through the housing vent between the outside of the housing and the inside of the housing”. Neither of the two possible candidates for a housing presented in Dufresne provide the features of the housing in the claimed invention or even suggest these features. Applicant submits that a person skilled in the art given Dufresne would not immediately come to the claimed invention of the present application.

Further, the circulation and venting unit of the claimed invention is designed to be fitted into existing cabinets. The existing cabinets have bends in the cabinet ceiling and a roof covering the ceiling to allow vented air to escape while protecting the inside of the cabinet from rain etc. The housing of the circulation and venting unit of the claimed invention allows the unit to be fitted into many types of existing cabinets. In contrast the cabinet of the citation does not including a separate circulation and venting unit. The baffle (21) of the cabinet of Dufresne could not be fitted into any other types of cabinet even if it was considered that the baffle was also a housing, which we argue above does not fall within the scope of the present claims. As an illustration, it would be possible to fit the circulation and venting unit of the claimed invention into the cabinet of the citation (with the baffle removed) but it would not be possible to useably replace the circulation and venting unit with the baffle of the citation in the cabinet shown in the claimed invention. Dufresne does not provide the desirable feature of a unit that can be fitted into existing cabinets.

Altogether, there is no teaching or suggestion in Dufresne of the housing having a housing vent including a closure moveable between an open position in which air is permitted to flow through the housing vent between the outside of the housing and the inside of the housing, and a closed position in which little or no air is permitted to flow through the housing vent between the outside of the

housing and the inside of that housing. In Dufresne, the housing is always open to the external environment via openings 30, 31. Further the baffle of Dufresne cannot be fitted into existing cabinets unless the cabinet is substantially identical to that shown in Dufresne. In contrast a desirable feature of the claimed invention is that it can be fitted into many types of existing cabinets.

Claim 3-4 ultimately depend from claim 1 and thus include all the limitations of claim 1. Therefore, Dufresne does not teach or suggest all the elements of base claim 1 or dependent claims 3-4. For at least the reasons stated above, Applicant respectfully submits that claims 3-4 are not obvious in view of Dufresne, and that the rejections for claims 3-4 be withdrawn.

Furthermore, neither Jones nor Lattimore (cited to provide for the limitations presented in claims 5 & 6, respectively) cure the deficiencies described above. Thus, claim 5 is not unpatentable over Dufresne in view of Jones, and claim 6 is not unpatentable over Dufresne in view of Lattimore. Therefore, Applicant respectfully submits that the rejections for claim 5 and 6 be withdrawn.

Applicant, accordingly, respectfully requests withdrawal of the rejections under 35 U.S.C. § 102 and § 103.

Applicant respectfully submits that the present application is in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Stephen M. De Klerk at (408) 720-8300.

Please charge any shortages and credit any overages to Deposit Account No. 02-2666. Any necessary extension of time for response not already requested is hereby requested. Please charge any corresponding fee to Deposit Account No. 02-2666.

Respectfully submitted,
Blakely, Sokoloff, Taylor & Zafman LLP

Date: April 16, 2008

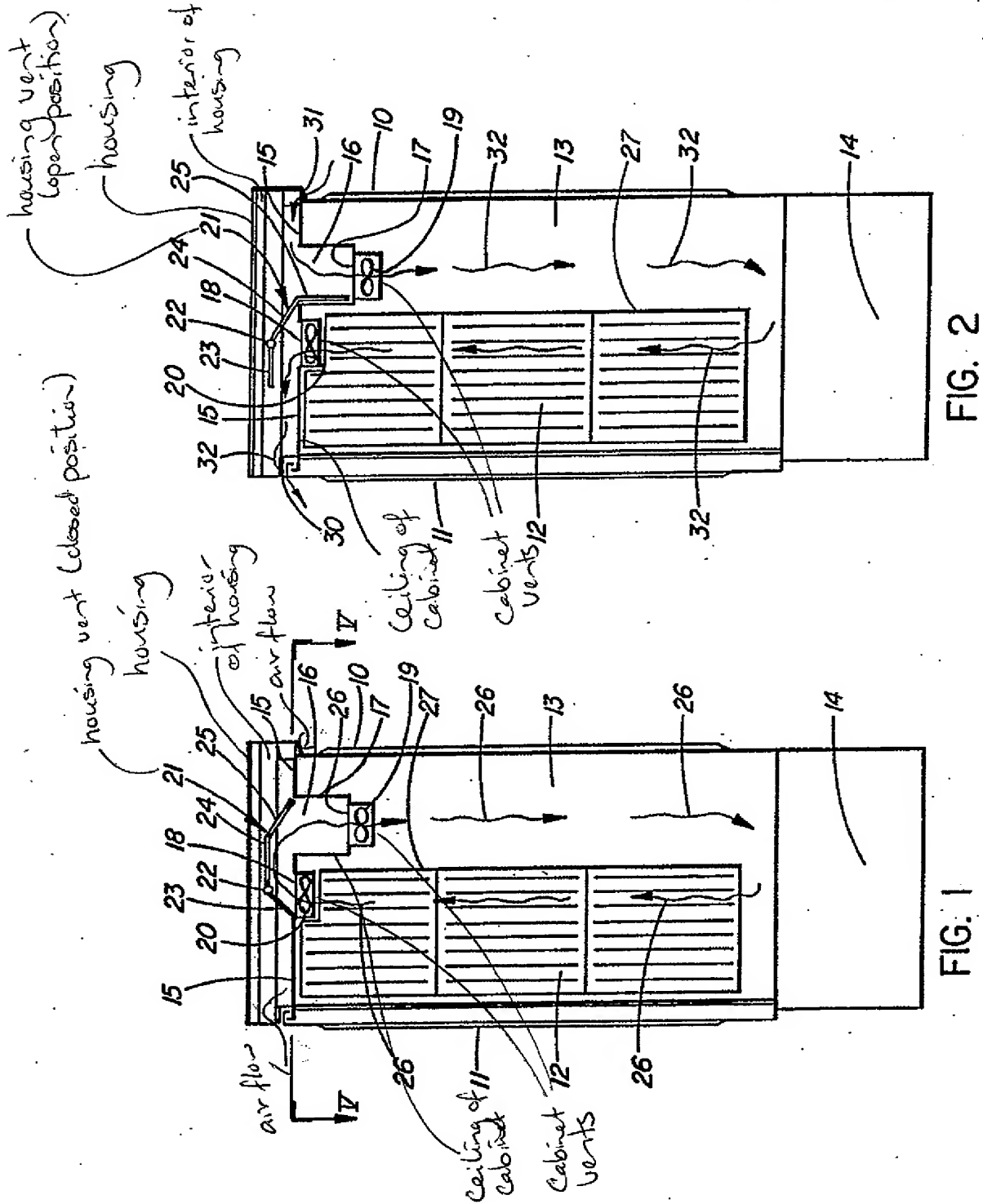

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U.S. Patent Jan. 22, 1985

Sheet 1 of 3

4,495,545

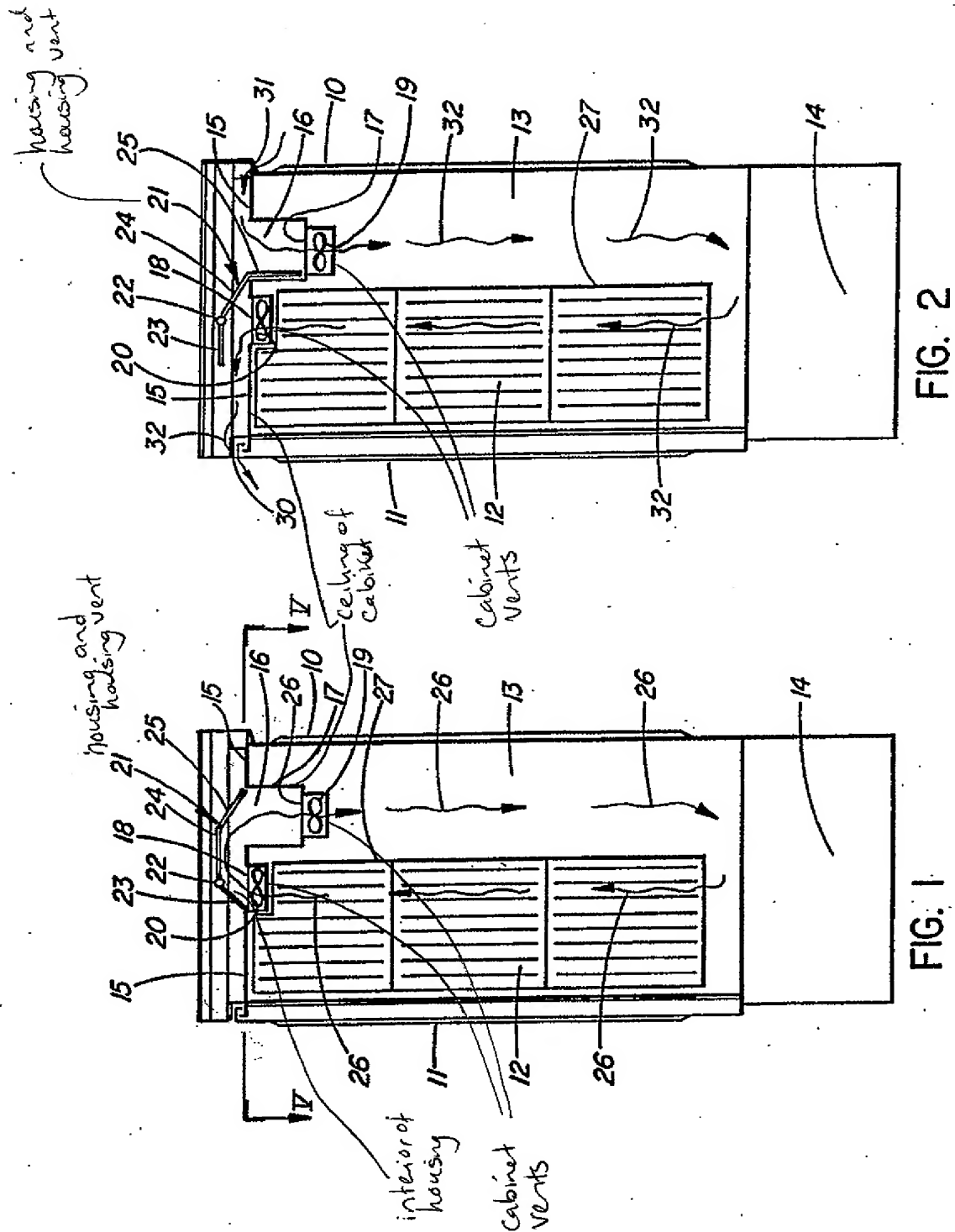


option 1: Exterior of cabinet is the housing

U.S. Patent Jan. 22, 1985

Sheet 1 of 3

4,495,545



Option 2: Baffle is housing